

Ford, et al.
U.S. Application No. 09/981,649

REMARKS

Upon entry of the foregoing amendments, claims 13-24 and 81-83 are under consideration and pending in the application.

The Examiner requires restriction pursuant to 35 U.S.C §121 to one of the allegedly ten separate patentably distinct species of the claimed invention of claim 13. Applicants submit that the invention is drawn to a single method of detection. The method of detection is the same regardless of the cancer type. In addition, the specification discloses experimental data supporting the use of the polypeptide of the invention in detecting the claimed cancer types, specifically at least on pages 112-114, 116-119 and page 71 at lines 11-21. Therefore, applicants submit that it would not impose an undue burden on the examiner to examine the method claim of 13 with regard to the above-mentioned cancer cell types.

Applicants have amended claim 18 to specify the cancer cell types which are dependent on the method of claim 13. Support for this amendment can be found in at least the originally filed claims 18-25 and previously added claims 81-83. Thus, no new matter is added. In view of the amendment of claim 18 above, applicants respectfully submit that the required restriction for claim 13 becomes moot and should be withdrawn. However, in response to the May 5, 2003 Restriction Requirement, Applicants elect *with traverse* a method of detecting a cancerous cell expressing the polypeptide of SEQ ID NO: 24 or a fragment thereof, wherein the cancerous cell is a colon cancer cell. Applicants make this election without prejudice to pursuing non-elected subject matter in later applications. In addition, no change in inventorship under 37 C.F.R. §1.48(b) is merited by amending claim 18 under 37 C.F.R. §1.121 and as such, no request under 37 C.F.R. §1.48(b) or fee under 37 C.F.R. §1.17(i) are submitted.

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CONCLUSION

On the basis of the foregoing amendments and remarks, Applicants respectfully submit that the pending claims are in condition for allowance, and a Notice of Allowance is respectfully requested as soon as possible. If there are any questions regarding these amendments and remarks, or if further discussion would expedite allowance of the claims, the Examiner is encouraged to contact the undersigned at the telephone number provided below.

Respectfully submitted,

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